

## 803 CMR 9.00: VICTIM NOTIFICATION REGISTRY (VNR)

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### 9.01: Purpose and Scope

- (1) 803 CMR 9.00 is issued in accordance with M.G.L. c. 6, § 172(n) for the purposes described in M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19), 172(k), and 178A.
- (2) 803 CMR 9.00 establishes procedures regarding the registration of individuals for advance notification of an offender's change in custody status and the registration of individuals for access to Criminal Offender Record Information (CORI). 803 CMR 9.00 further identifies user responsibilities regarding submission of applications, as well as access to and use of the information contained in the Victim Notification Registry (VNR).
- (3) 803 CMR 9.00 applies to any authorized state, county, or municipal agency that uses the VNR in the course of its criminal justice duties. Further, 803 CMR 9.00 applies to any individual who uses the VNR or obtains information from it under notice registration or 178A CORI access registration. Every authorized state, county, or municipal agency that uses the VNR shall be responsible for implementing, enforcing, and monitoring 803 CMR 9.00 within their respective jurisdictions.
- (4) Nothing contained in 803 CMR 9.00 shall be interpreted to limit the authority granted to the Criminal Record Review Board (CRRB) or to the Department of Criminal Justice Information Services (DCJIS) by the Massachusetts General Laws.

### 9.02: Definitions

All definitions set forth in 803 CMR 2.00, 5.00, 7.00, 8.00, 10.00 and 11.00 are incorporated herein by reference. The following additional words and phrases as used in 803 CMR 9.00 shall have the following meanings:

178A CORI Access. A VNR registration for a victim of crime, witness, family member of a homicide victim, parent/guardian of a minor victim, or parent/guardian of a minor witness as defined by M.G.L. c. 258B, § 1, that allows access to all available CORI of the person arraigned or convicted of said crime.

Applicant Information. Identifying information and contact information supplied by the applicant, including name, date of birth, last four digits of social security number, address, phone number, applicant category, and e-mail address (if applicable).

Authenticated User. An individual authorized to access the VNR.

Authenticated User Agency. An agency or department authorized by the DCJIS to access the VNR.

Custodial Agency. The agency to which an offender is sentenced by the court to serve incarceration.

Notice Registration. A VNR registration for certain eligible individuals to be notified of certain changes to an offender's custody status pursuant to M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19) and (k).

Registration Misuse. The use of information obtained pursuant to VNR registration for other than its intended purpose.

Supervisory Agency. The agency responsible for the custody or supervision of an offender.

Victim Notification Registry (VNR). The internet-based application maintained by the DCJIS and used to register eligible individuals affected by crime, victims, family members of homicide victims, and family members of deceased or incompetent victims for notice of an offender's change in custody status or for access to CORI.

#### 9.03: Availability of Information Contained in the VNR

- (1) Pursuant to Massachusetts law (M.G.L. c. 6, § 172, M.G.L. c. 66, § 10, and 950 CMR 32.00), the information contained in the VNR is not subject to public disclosure.
- (2) Information contained in the VNR will be treated as confidential unless expressly designated otherwise by the user.
- (3) Certain information within the VNR may cease to be confidential upon a finding of registration misuse.

#### 9.04: VNR Registration

- (1) Pursuant to M.G.L. c. 258B, § 3(t), victims, upon request, have the right to be informed in advance by the appropriate custodial agency whenever the specified offender receives a temporary, provisional, or final release from custody; whenever a defendant is moved from a secure facility to a less-secure facility; and whenever a defendant escapes from custody. In order to receive such notification of an offender's change in custody status, a victim must register in the VNR through the appropriate authenticated user agency.
- (2) Pursuant to M.G.L. c. 6, § 172(k), an authenticated user may, upon request, register an individual in the VNR who articulates a fear of a specific named offender in order to receive advance notification of the offender's change in custody status from the appropriate custodial or supervisory agency.
- (3) An individual must register in the VNR in order to receive notice of changes to an offender's custody status or to receive CORI access.
- (4) An applicant may apply for registration through one of the authenticated user agencies, directly through the VNR application, or via a paper application.
- (5) An individual cannot be registered without the individual's consent.

#### 9.05: Duration and Cancellation of Registrations

- (1) A VNR registration shall remain active for the natural life of the registered individual or offender, unless cancelled by a custodial or supervising agency, by the DCJIS, or by the registered individual.
- (2) A VNR registration may be cancelled by a custodial or supervising agency, or by the DCJIS, in the following circumstances:

- (a) the death of the registered individual;
  - (b) the death of the offender;
  - (c) a finding of registration misuse;
  - (d) a finding that a registered individual has made explicit threats or articulated plans to harm an offender upon release from custody; and
  - (e) a finding that the purpose of the registration no longer exists.
- (3) A registered individual may also voluntarily cancel a registration by contacting the DCJIS, the appropriate custodial or supervisory agency, or a District Attorney's victim/witness advocate office. If, after voluntarily cancelling a registration, an individual would like to re-register, the individual must submit a new application.

#### 9.06: Eligibility for CORI Access

- (1) A victim of crime, a witness, or a family member of a homicide victim, all as defined in M.G.L. c. 258B, may register in the VNR to obtain all available CORI of the person accused or convicted of said crime.
- (2) All information received pursuant to this section is confidential and shall not be shared by the victim, witness, or family member with any other individual or entity, except as reasonably necessary for the security and well-being of the victim or as provided by law, provided however, that the use of this information to harass or commit a crime against the subject of the CORI is prohibited and is subject to the penalties set forth in M.G.L. c. 6, § 178 ½.
- (3) An individual registered for CORI access shall receive:
  - (a) all pending criminal charges, including cases continued without a finding of guilt, as well as misdemeanor convictions and felony convictions dating from the subject's 18<sup>th</sup> birthday and, if the subject was adjudicated as an adult while younger than 18 years old, information relating to those offenses;
  - (b) information regarding charged criminal offenses that did not result in a conviction; and
  - (c) all criminal convictions and information relating to those offenses for which the subject was adjudicated as an adult while younger than 18 years old.
- (4) Criminal justice agencies may also disclose to individuals registered for CORI access such additional information, including, but not limited to, evaluative information, as such agencies determine in their discretion is reasonably necessary for the security and well-being of such persons.

#### 9.07: Responsibilities of Registered Individuals

- (1) A registered individual is responsible for providing any changes to the individual's registration information, including means of contact, name changes, address changes, phone number changes, and email address changes.
  - (a) In order to change or update this information, the individual must contact the DCJIS or any authenticated user agency.
- (2) A registered individual shall only use the information received pursuant to the registration for its intended purpose.

#### 9.08: Responsibilities of Authenticated User Agencies

- (1) Each authenticated user agency shall draft and enforce a VNR policy that shall include, at a minimum, provisions for the following:
  - (a) guidelines for agency employees who may have authorized access to VNR data;
  - (b) procedures regarding registration of VNR applicants;
  - (c) procedures regarding notification of registered individuals;
  - (d) procedures to ensure the confidentiality of information contained in the VNR; and
  - (e) procedures regarding the cancellation of individual accounts.
- (2) Authenticated user agencies shall determine which agency employees are granted access to the VNR.
- (3) All authenticated user agency employees authorized for VNR access must be trained in the use of the VNR. In addition, all VNR authenticated users must take the CJIS Certification examination.
- (4) Authenticated user agencies shall require that each agency employee approved for VNR access provide a signed acknowledgment that the employee has received a copy of, and understands, the agency's VNR policy and 803 CMR 9.00. Authenticated user agencies shall retain all signed acknowledgment forms for at least one year following the conclusion of the employment of each authorized VNR user.
- (5) Authenticated user agencies shall not disclose, in any manner, the existence or status of a registration without the express, written authorization of the registered individual.
- (6) Authenticated user agencies shall update the applicant registration information in the VNR at the request of the applicant.
- (7) Authenticated user agencies shall report registration misuse by any individual to the DCJIS as soon as practicable.
- (8) Prior to requesting the cancellation of a registration, the authenticated user agency shall attempt to contact the applicant by using, at a minimum, all applicant contact information provided by the individual.
- (9) If an individual applying for VNR registration, or a person already registered, requests that only one particular type of notification (e.g., email, telephone, U.S. Mail) be used for contact, the authenticated user agency will comply with that request.

9.09: Responsibilities of Custodial and Supervisory Agencies Relevant to Registered Individuals

- (1) Each custodial or supervisory agency shall check the VNR daily to ascertain if there are any new or pending registration applications on which it must act.
  - (a) Pending registration applications must be verified or returned to the DCJIS as unverifiable.
  - (b) Notifications must be made, when applicable, on all approved registrations.
- (2) Each custodial or supervisory agency shall provide no less than 14 days advance notification for the offender's:
  - (a) temporary, provisional, and final release from custody;
  - (b) parole, pardon, or commutation eligibility and hearing, and decision;
  - (c) move from a secure to less secure facility; and
  - (d) parole discharge or termination from supervision.
- (3) As soon as practicable, the custodial or supervising agency shall provide notification whenever an offender:
  - (a) dies;
  - (b) receives a parole rescission or revocation;

- (c) is transferred to a county facility from another county facility;
  - (d) is transferred to a state facility from a county facility; or
  - (e) is transferred to an out-of-state facility, including federal facilities.
- (4) The custodial or supervising agency shall provide emergency notification by both telephone and mail, whenever an offender:
  - (a) escapes from custody or absconds from supervision;
  - (b) receives a court-ordered release from custody;
  - (c) receives an emergency temporary release under escort; or
  - (d) receives a short sentence that prohibits 14 days advance notice.
- (5) The custodial or supervising agency shall consider the location of the registered person's residence and workplace, if known, for safety reasons when making offender transfer or temporary and provisional release decisions.
- (6) The custodial or supervisory agency shall provide registered individuals with a description of any temporary or pre-release program activity when an offender is placed into the community.
- (7) The custodial or supervising agency shall provide registered individuals with the name and location of any agency having jurisdiction of an offender upon release from custody.
- (8) Nothing contained in 803 CMR 9.00 shall be interpreted as limiting additional or expanded notification to registered individuals as deemed appropriate by any custodial or supervisory agency.

#### 9.10: Responsibilities of Users of the VNR Public Internet Site

- (1) An individual utilizing the VNR public internet site must use the VNR solely for its intended purposes.
- (2) An applicant registering via the VNR public internet site shall submit all required supporting documentation to the DCJIS within 15 business days of submitting the application.

#### 9.11: Severability

If any provision of 803 CMR 9.00, or the application thereof, is held to be invalid, such invalidity shall not affect the other provisions or the application of any other part of 803 CMR 9.00 not specifically held invalid and, to this end, the provisions of 803 CMR 9.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY 803 CMR 9.00: M.G.L. c. 6, § 172(n) for the purposes described in M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19), 172(k), and 178A.